



DEPARTMENT OF PERSONNEL
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MEMO PERD #05/06
January 27, 2006

TO: Personnel Commission Members
Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives
Designee for Rules Distribution
Employee Representatives
Media Representatives

FROM: Jeanne Greene, Director
Department of Personnel

SUBJECT: PERSONNEL COMMISSION MEETING MINUTES

Attached are the minutes from the November 8, 2005, Personnel Commission meeting. These minutes have not been approved and are subject to revision at the next meeting of the Personnel Commission on February 10, 2006.

JG:sq

Attachment

**PERSONNEL COMMISSION MEETING
MINUTES OF NOVEMBER 8, 2005**

**MEMO PERD #05/06
January 27, 2006**

I. Call to Order

Chairman Enus called the meeting to order at 8:07 a.m., November 8, 2005, at the Legislative Building, Room 4100, 401 South Carson Street, Carson City, and via videoconference at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas.

Members present in Carson City: Chairman Claudette Enus and Commissioners Katherine Fox and Jack Eastwick; present from the Department of Personnel were Director Jeanne Greene and Shelley Blotter, Chief of Technical Services, and Jim Spencer, Chief Deputy Attorney General, from the Attorney General's Office

Member present in Las Vegas: Commissioner David Sánchez

Member absent: Commissioner David Read

II. *Adoption of Agenda

Commissioner Fox's motion to adopt the agenda was seconded by Commissioner Eastwick and unanimously carried.

III. *Adoption of Minutes of Previous Meeting

Commissioner Eastwick's motion to approve the minutes of the September 23, 2005, meeting was seconded by Commissioner Fox and unanimously carried.

IV. *Proposed Regulation Changes to Nevada Administrative Code, Chapter 284

A. Revised Regulations Proposed for Permanent Adoption

Tracy Walters, Personnel Analyst, Department of Personnel, explained the adopted regulations would go into effect on the date they are filed with the Secretary of State's Office. Chairman Enus directed Ms. Walters to address only the regulations with substantive changes.

Sec. 5 NAC 284.470 Preparation, filing and discussion of reports; duties of employees; requests for review; grievances

Ms. Walters explained the amendments to subsection 3 and 4 were proposed by the Department of Cultural Affairs. The amendment to subsection 3 clarifies that if a performance appraisal is not filed timely an employee will be deemed standard for the purpose of pay. The amendment to subsection 4 allows an appointing authority to include in the current rating period new information about an employee's performance that occurred during a prior rating period.

The amendment to subsection 8, recommended by the Employee Management Committee (EMC), allows an employee 10 days to respond to any additional comments added to the employee's performance evaluation but does not delay filing with the Department of Personnel.

Ms. Walters explained that in subsection 8(b), Kareen Masters, Deputy Director, Administration, Department of Health and Human Services, proposed additional language to be added as follows:

"The employee may respond in writing to the additional comments in the revised report not later than 10 working days after he receives a copy of the revised report and submit the response to the appointing authority and to the Department of Personnel for inclusion in his file of employment."

Ms. Walters stated the Department of Personnel was in agreement with Ms. Masters' addition.

Scott Sisco, Director, Department of Cultural Affairs (DCA), and a member of the EMC, supported the changes under Item IV-A. Mr. Sisco explained that several of the items had come before the EMC as well as his own agency.

Mr. Sisco said the changes clarify the language and define what *an evaluation not being completed on time* actually means. There are occasions when an investigation is in progress at the time an evaluation is due. The agency does not have a final determination on the investigation, so this information cannot be included in the evaluation.

Mr. Sisco explained the current regulation allows an employee to come back at a later time and note to their supervisor that the evaluation time has passed. The investigation findings cannot be used because they occurred during a previous evaluation period. He stated the proposed change corrects this problem.

Commissioner Fox asked if the evaluation due date is adjusted when an employee is on extended leave or delayed because of an investigation. Ms. Walters replied that an employee's pay progression date would not be adjusted unless they had been on leave

without pay for more than 240 hours during the rating period. An ongoing investigation would not extend the rating period.

Chairman Enus reviewed the changes to be considered under Item IV, saying there were minor amendments to NAC 284.097, 284.116, 284.313 and 284.373, and the additional language proposed by Ms. Masters in NAC 284.470.

Ms. Walters advised Chairman Enus that NAC 284.116 had been withdrawn from consideration.

Commissioner Eastwick's motion to adopt the amendments under Item IV-A, as stated above by Chairman Enus and revised by Ms. Walters, was seconded by Commissioner Fox and unanimously carried.

B. Changes resulting from a comprehensive review of the regulations pertaining to the "Attendance and Leaves" section

Ms. Walters explained that the substantive changes were in sections 3, 17, 18, and 19, as follows:

Sec. 3 NAC 284.524 Workweeks and workdays; periods for rest and meals

This amendment, proposed by the Department of Personnel:

- Describes the attendance requirements for State Service;
- Simplifies the language of the current regulation; and

Increases the minimum number of hours worked before a lunch period is required, thereby, providing additional scheduling options for flexible work schedules. This change does not conflict with the Fair Labor Standards Act.

There were no comments or questions on this section.

Sec. 17 NAC 284.575 Catastrophic leave: Interpretation of certain statutory terms

This amendment, proposed by the Department of Personnel, changes the definition of a "catastrophe" for the purpose of eligibility for catastrophic leave. The new definition defines the components of a catastrophe to include extreme loss, lasting distress and the seriousness of the condition.

This change had received considerable opposition and the Department had decided, with the Commission's approval, to remove Section 17 from consideration.

In response to Chairman Enus' question, Ms. Walters stated the opposition was against the new definition that uses terms such as tremendous loss, serious illness, and lasting distress. The opposition felt these terms were ambiguous and hard to describe leaving the definition open to interpretation.

Phil Brittenham, Personnel Officer, Department of Motor Vehicles, who is also chairman of the Committee on Catastrophic Leave, said the definition of *catastrophe* in its existing form is straightforward and applied effectively to the broad ranging circumstances presented to the Committee. He explained the proposed language complicates the interpretation of a catastrophe, and adds conditions the Committee believes were not intended by the Legislature or Commission. It will add consternation to the process for both agencies and the Committee, in addition to determining whether an applicant does or does not meet the requirements as intended by the program. Mr. Brittenham stated the Committee was opposed to the language change.

Chairman Enus clarified that if the proposed language was withdrawn, the language in sections 2 and 3 regarding lengthy convalescence and life threatening condition would remain in effect.

There were no further comments or questions on this section.

Sec. 18 NAC 284.576 Catastrophic leave: Use and administration; appeal of denial

This amendment, proposed by the Department of Personnel, clarifies that an employee who has been *approved by the appointing authority* for catastrophic leave for a clearly specified period of time continues to be on approved leave for the approved period even if donations are not sufficient to pay the employee for the entire absence. Additionally, the new language mandates that any leave donation that is received after the employee has entered leave without pay status will be applied retroactively to create a continuous pay event for the employee.

Phil Brittenham, Personnel Officer, Department of Motor Vehicles, stated it didn't just simplify the language, but seemed to change the law. He supports catastrophic leave, believes it is a great program of charity from one employee to another, and many employees have benefited from the program. If the State didn't have a catastrophic leave program, an employee out of leave would apply for approved leave without pay (LWOP).

Mr. Brittenham stated that to build in language for "mandatory leave without pay status" handcuffs the employer in the event there is an employee who has no leave on the books. He said that the lack of opportunity for an agency to address the long-term absence of an employee, because of regulations allowing an employee to take up to 1,040 hours (6 months) of catastrophic leave, hinders them from addressing the issue sooner than 6 months. Separating an employee under regulation NAC 284.611 can take an additional 6 to 12 months.

Chairman Enus asked for clarification that Mr. Brittenham was not disagreeing with the program itself, or that catastrophic leave is being provided; but it is the extension of the time. Mr. Brittenham supports the catastrophic leave program; however, gave an example of how difficult it can be to separate an employee in certain situations.

Jim Spencer, Chief Deputy Attorney General, asked Mr. Brittenham whether the employee be covered under the Family and Medical Leave Act (FMLA) as well? Mr. Brittenham responded saying that 12 weeks is the extent of Family and Medical Leave Act, after that, the employee is no longer covered. However, if there is an approved catastrophic leave application, the employee is covered for an additional three months, may not be getting any donations, and may not have a future with the agency. This considerable extension would hamper the agency to make decisions at the appropriate time.

Ruth Edsall, Personnel Officer, Department of Employment, Training and Rehabilitation explained she was on the committee that proposed the regulation change. She explained that currently when an appointing authority approves catastrophic leave, they sign off on the Catastrophic Leave Request Form for "x" number of hours (up to 1,040). The employee is under the assumption they are approved leave for those hours. Donations are not always available at the start of the leave time; therefore, the employee does not know if they are in an approved leave status. She explained that what Mr. Brittenham was suggesting is that if the employee never receives any donations in advance of that time frame, the appointing authority may take action to move towards separating the employee, even though they had indicated that if donations were received they could be on catastrophic leave. Ms. Edsall stated that the employee has the right to be off for the amount of time authorized by the appointing authority whether or not they receive donated time. She felt that it seemed unfair to the employee who had applied for leave, had been approved for leave by the appointing authority, but did not receive any donations, during that time frame to subsequently have the agency move towards separation.

Chairman Enus asked for clarification that the appointing authority has the discretion, in terms of completing the form, to approve the amount of time based on the medical certificates that are submitted to the agency. Ms. Edsall stated that was correct and most agencies have their own policies for handling catastrophic leave requests.

Ms. Edsall explained the amendment would protect the catastrophic leave request that has been signed by the appointing authority and prevent the agency from proceeding with separating the employee based on them not receiving any donations.

Chairman Enus asked if changing the word "shall" to "may" might give the agency more discretion with keeping an employee on or allowing the agency the ability to move forward with separation.

Chief Shelley Blotter, Technical Services Division, Department of Personnel, replied there is another provision in NAC which allows an appointing authority to approve leave without pay for up to one year, without the Commission's approval. If the proposed language were adopted, the appointing authority would be required to approve leave without pay status. Currently, the regulation gives an appointing authority the option to approve it.

Ms. Walters explained that if the language were changed from ... "shall" to "may" *be deemed to be on approved leave without pay for the same period of time that was approved for the catastrophic leave*, it would defeat the intent of the committee which was to protect the employee from being terminated after a leave request has been approved. Ms. Walters shared a scenario of two equal employees with the same catastrophic condition. One employed longer with the State, has support, receives many donated hours, their job would not be at risk. Whereas, without this regulation in place, the other employee with the exact same illness, who doesn't receive donations either because they are new to the State, not well known, or wants to keep an illness confidential, could be terminated because they would not be in an approved paid leave status.

Commissioner Eastwick asked if the leave was approved and the employee is not in paid status, would it then become disapproved at that point?

Ms. Walters reiterated Mr. Brittenham's scenario, which was even though an employee had approved catastrophic leave, he may not receive donations from co-workers or the agency bank, putting the employee in a leave without pay status. If the employee had been abusive with their leave or the appointing authority knew the employee was not returning to work, at that point the agency could begin proceeding to separate the employee during the previously approved catastrophic leave time frame.

Commissioner Eastwick agreed that the leave should be approved whether they have the donated hours or not. Ms. Walters confirmed that was the intent of the new language.

Mr. Brittenham felt the catastrophic leave program wasn't a leave program, but a charity program. The program isn't implemented until someone has a catastrophe, has already used up all of their leave time, and cannot return to work. In his tenure with his agency, Mr. Brittenham stated they have not separated anyone on approved catastrophic leave until time had passed without any donations.

Chairman Enus expressed that Ms. Walters and Ms. Edsall had valid points for adopting the amendment. One being the authority of the agency to have the discretion to approve catastrophic leave, and the other is the ability to control the amount of catastrophic leave that is approved, along with the ability to ask for medical recertification. This would give the agency the authority to manage the situation regarding the request for catastrophic leave, and make its decision as to whether or not seeking separation was what they wanted to do.

Chairman Enus stated that it did appear there are some controls with the current language, and the new language in subsection 5 clearly tells an employee they have the approval to continue to be off during the time previously approved by the appointing authority.

Mr. Brittenham added that most agencies do not have written policies or guidelines regarding the administration of catastrophic leave; therefore, the Committee refers straight to NAC 284 to make those determinations. He indicated that most agencies are not prepared to determine the appropriateness of catastrophic leave and may have to make an arbitrary decision whether or not to approve continued hours of leave.

Scott Sisco, Director, Department of Cultural Affairs, shared that when an employee requests catastrophic leave and their doctor certifies they're unable to work for the full 1,040 hours, his agency does not have the resources to grant the leave. Smaller agencies need some flexibility to be able to do something with these types of situations.

There were no further comments or questions on this section.

Sec. 19 NAC 284.578 Leave of absence without pay

This amendment, proposed by the Department of Personnel, simplifies the language of the current regulation and rearranges the information (subsection 2 is moved to subsection 5) to make it easier to read and understand. A "reasonable time" is defined as "five working days from the notification date." Subsection 6 is added to clarify that employees with existing leave balances must have approval by the appointing authority to take a leave of absence without pay prior to exhausting their annual and sick leave.

Ms. Walters explained that in subsection 3, the Department had proposed additional language, *"Except for an employee who is taking leave pursuant to the Family and Medical Leave Act."* Ms. Walters said the Department of Personnel received legal advise on the additional language. Ms. Blotter explained that based on the Department's Deputy Attorney General's advise, the Department wanted to remove the proposed language and retain the existing language.

Chairman Enus summarized the substantive changes discussed in Sections 3, 17, 18, and 19. Section 17 was withdrawn entirely; the proposed change in Section 19, Subsection 3 was withdrawn; and there was extensive discussion on the proposed changes to Section 18. Only minor changes were proposed for NAC 284.255, 284.5231, 284.5255, 284.538, 284.5385, 284.539, 284.5405, 284.542, 284.544, 284.546, 284.548, 284.551, 284.552, 284.558, 284.568, 284.5811, 284.582, 284.586, 284.589, 284.5895, 284.594 and 284.598, and the following regulations were recommended for repeal: NAC 284.5236, 284.5238, and 284.590.

There being no further comments or questions, Commissioner Eastwick's motion to adopt the amendments proposed under Item IV-B including the withdrawal of Section 17 and Subsection 3 of Section 19, and adopting Section 18 as proposed, was seconded by Commissioner Sánchez and unanimously carried.

- C. Changes resulting from a comprehensive review of the regulations pertaining to the "Disabilities Related to Work" section

Ms. Walters stated that the reviewing committee had recommended that the phrase "Disabilities Related to Work" be changed to "Work Related Injury or Occupational Disease" as those sections directly refer to work related injuries and the term "disabilities" is misleading. Section 9 – NAC 2843.598 was removed from consideration.

Jim Fry, Deputy Risk Manager, Risk Management Division, Department of Administration, addressed the Commission regarding Section 16, NAC 284.6014.

Sec. 16. NAC 284.6014 Eligibility of employee with permanent disability for reemployment

This amendment, proposed by the Department of Personnel, clarifies the current regulation. Subsection 3 is deleted because it is redundant to language in the reemployment list section and deletes and revises subsection 4 to clarify which party is responsible for submitting each document. The change also clarifies that the Nevada System of Higher Education has a separate workers' compensation office.

Mr. Fry indicated his division finds the current language of NAC 284.6014 as being problematic. The current subsection 2, first sentence reads, "A person is entitled to reemployment under this section only within the department that employed him at the time of permanent disability. Mr. Fry said this statement might not adhere to current EEOC guidelines and current appellate court decisions. And, because the EEOC uses the term "transfer" and the State uses "reemployment," this might be a risk to the State. If an employee was permanently disabled, and the State did not offer him reemployment outside of his originating department that might be discriminatory. Mr. Fry explained the State already allows interdepartmental transfers and unrestricted placement on the reemployment list for non-disabled employees, yet NAC 284.6014 restricts disabled employees from reemployment other than their original department.

Chairman Enus asked Mr. Fry if he had any discussion with the Department of Personnel about Risk Management's concerns over the changes in Section 16. Mr. Fry indicated he was on the review committee of the "Disabilities Related to Work" section who recommended this sentence be removed. He also attended the workshop and presented his agency's concerns there.

Ms. Walters explained that a person who has been injured can voluntarily transfer to another State agency. Those voluntary transfers to other departments are not mandated by State regulations. There are no prohibitions against transferring to another agency if you have an injury. Additionally, because departments are considered single entities the Department of Personnel felt they were in the confines of the law having those reemployments within the same department.

Chairman Enus stated that she shared Mr. Fry's concerns as well. She asked counsel, Jim Spencer, if this section could be removed from consideration and request that the Department meet with our attorneys and Mr. Fry and take another review of this proposed revision.

Mr. Spencer recommended the removal of Sec. 16 - NAC 284.6014 as he was not legally prepared to respond to the question. Chairman Enus suggested to the Commission members that they consider the removal of Section 16 and hold it over until the Department of Personnel could review it with the Attorney General's office.

Ms. Walters asked if they could still approve the original proposal to change the terminology of "Disabilities Related to Work" to "Work Related Injury or Occupational Disease" to be consistent with the other sections under Item IV-C. Chairman Enus stated they would include Section 16 in the motion to change the terminology and asked that the balance of its proposed changes be reviewed and brought back to them later.

Chairman Enus summarized the amendments under Item IV-C noting the withdrawal of Sec. 9 - NAC 284.598 from consideration and the approval to change the terminology in Sec. 16 - NAC 284.6014, as stated above. The motion would also include the proposed new section to define "work-related injury or occupational disease," and minor revisions to NAC 284.010, 284.095, 284.182, 284.282, 284.444, 284.5405, 284.551, 284.600, 284.6002, 284.6004, 284.6008, 284.6012, 284.6013, 284.6015, 284.6019. Regulations proposed for repeal were: NAC 284.6006, 284.601, and 284.6016.

Commissioner Fox's motion to adopt the amendments, under Item IV-C as stated above by Chairman Enus, was seconded by Commissioner Eastwick and unanimously carried.

- D. Changes resulting from a comprehensive review of the regulations pertaining to the "Separations from Service" section

Ms. Walters explained there was only one substantive change in Item IV-D.

Sec. 4 NAC 284.602 Resignations

This amendment, proposed by the Department of Personnel, clarifies that there is an expectation for an employee to give two weeks notice at the time of resignation. A new provision allows the appointing authority to make a note in the employee's record for

failure to provide sufficient notification of resignation. The new subsection 2 is amended to more closely mirror the form.

Chairman Enus asked when verbal notice was given, could that notation be made or does this provision state that the individual must/shall give written notice? Ms. Walters referred to the NRS that states that if an employee gives notice, they have 3 business days to rescind it. If a verbal notice is given, then the employee is requested to sign a resignation form indicating that they wish to resign.

There being no further comments, Commissioner Fox's motion to adopt the amendments to NAC 284.076, 284.374, 284.444, 284.602, 284.611, 284.614, 284.618, 284.626, 284.630, and 284.632 as presented under Item IV-D was seconded by Commissioner Eastwick and unanimously carried.

V. *Approval of Proposed Class Specifications

Chairman Enus stated that Item V-A had been withdrawn.

B. Chief, Hydrology Section

Mary Day, Supervisory Personnel Analyst, Department of Personnel, explained there were three class specifications recommended for approval that her analysts would present.

Brenda Harvey, Personnel Analyst, Department of Personnel, stated the Department of Conservation and Natural Resources requested the development of the Chief, Hydrology Section class for a position that provides hydrologic expertise to the Division of Water Resources. The Department recommended the new class be established at grade 44 to align with the Chief, Hearings Section, grade 44, to recognize the advanced level of knowledge, skills, and abilities required, and the nature and complexity of hydrology issues managed by the position. The State Engineer, Department of Conservation and Natural Resources served as a subject matter expert and supports this recommendation.

Commissioner Eastwick's motion to approve Item V-B was seconded by Commissioner Fox and carried unanimously.

C. Deputy Administrator, Emergency Management

D. Emergency Management Programs Manager

Tewolde Habtemicael, Personnel Analyst, Department of Personnel, explained the Division of Emergency Management was reorganizing due to expanded responsibilities with increased federal funding to administer natural, man-made (terrorism), and technological disasters. Because of the expanded responsibilities, the department requested the development of a Deputy Administrator, Emergency Management class that would provide oversight and coordination of

statewide, federal and State homeland security and emergency management programs. The new class was recommended to be established at grade 42.

Mr. Habtemicael continued to explain that the Emergency Management Programs Manager, currently a grade 37, was previously responsible for preparing for and the mediation of natural disasters, such as floods and earthquakes. The responsibilities have now expanded into homeland security preparations and response to the risk of terrorism that places additional response planning requirements on political subdivisions throughout the State. It was recommended that this class be upgraded to grade 39, two grades above the highest level subordinates, in order to recognize the expanded supervisory responsibility, the diversity of the programs administered and the higher level of knowledge, skills, and abilities required. The Department of Public Safety concurred with the recommendations of both classes under Item V-C and V-D.

Commissioner Fox's motion to approve Items V-C and V-D was seconded by Commissioner Eastwick and unanimously carried.

VI. *Approval of Occupational Group Study Revised Class Specifications
Engineering and Allied Occupational Group, Engineering Subgroup

Brenda Harvey, Personnel Analyst, Department of Personnel, explained the titles for the Administrator I, Registered Professional Engineer, and Administrator II, Registered Professional Engineer classes were changed to Administrator I, Professional Engineer and Administrator II, Professional Engineer and both were placed on the same class specification. With input from the subject matter experts, the series and class concepts, and the knowledge, skills and abilities have been refined to reflect the current duties performed. The minimum qualifications were simplified to reflect licensure as a Professional Engineer for both levels. Additionally, the benchmark descriptions were separated from the class specifications for easier reference.

Ms. Harvey also worked on the revisions to the Manager I, Registered Professional Engineer and Manager II, Registered Professional Engineer classes, changing the titles to Manager I, Professional Engineer and Manager II, Professional Engineer and both were placed on the same class specification. With input from the subject matter experts, the series, concepts, class concepts, and the knowledge, skills and abilities have been refined to reflect the current duties performed. The minimum qualifications were simplified to reflect licensure as a Professional Engineer for both levels, and the benchmark descriptions were separated from the class specifications for easier reference.

Commissioner Eastwick's motion to approve the Administrator, Professional Engineer series and Manager Professional Engineer series specifications was seconded by Commissioner Fox and unanimously carried.

Vivian Spiker, Personal Analyst, Department of Personnel, explained the titles for the Supervisor IV, Registered Professional Engineer, and Staff II, Registered Professional Engineer

classes were changed to Professional Engineer and Supervisor, Professional Engineer, and both classes were placed on the same class specification. Ms. Spiker stated she worked with subject matter experts and updated the duty statements, benchmarks and knowledge, skills, and abilities. The minimum qualifications were clarified to reflect the required licensure by the Nevada State Board of Professional Engineers and Land Surveyors.

Commissioner Fox's motion to adopt the changes of the Professional Engineering series to include Supervisor, Professional Engineer was seconded by Commissioner Eastwick and unanimously carried.

May Day, Supervisory Personnel Analyst, Department of Personnel, stated the Engineering Services Coordinator under Item VI. 2. was recommended to be abolished as it is no longer used.

Commissioner Fox's motion to abolish the obsolete Engineering Services Coordinator class was seconded by Commissioner Eastwick and unanimously carried.

VII. *Individual Classification Appeals

A. Jeanne Ohlson, Administrative Assistant III
University Police Services, University of Nevada Reno

Joseph Vanacore, Employee Representative, State of Nevada Employees' Association, stated that at a previous Commission meeting they discussed Ms. Ohlson's duties. Mr. Vanacore referred to Commissioner Read's statement at the July 15, 2005, meeting...that if he (Read) had to make a decision right now, he was leaning toward reallocation to at least Administrative Assistant IV. Chairman Enus asked him to refresh the Commission briefly on the nature of Ms. Ohlson's appeal.

Jeanne Ohlson described the significant changes to her position since the 9/11 attacks, such as how criminal justice agencies, especially the entering agencies, receive, transmit and store criminal histories. This has resulted in stricter federal and State guidelines and it is mandatory to have trained, certified personnel who demonstrate the required knowledge, skills and abilities.

Ms. Ohlson stated she was appointed by Chief Adam Garcia to be the (terminal agency coordinator) TAC and she is the (security point of contact) SPOC. In California, she is the ATAC-equivalent to the TAC for the State of Nevada. She represents the agency with respect to the NCJIS and CJIS networks and functions in an administrative capacity in order to speak on behalf of the agency.

Ms. Ohlson stated she has signature authority as the TAC and SPOC for all documentation in those processes. She sees approximately 100 warrant validations per month that involve updating the warrant information in their computer system, including missing persons and stolen property.

Ms. Ohlson explained she writes policy and receives approval from Chief Garcia before implementing. She sets all the instructions and who is to participate in the program as the TAC and SPOC. In addition, Ms. Ohlson said she serves as the custodian of records processing arrest packets daily, or writing policy on who is to participate in the programs.

Ms. Ohlson also serves as the campus security survey administrator, and plans, coordinates, and directs the program. All communication go through her and she associates with other departments on campus to compile their statistical data. She makes recommendations and determines eligibility and locks it in so the university will qualify for funding.

Ms. Ohlson stated she manages the Nevada Sex Offender/Crimes Against Children program by interviewing offenders and documenting their crimes. She makes an assessment and forwards it to the repository who determines the offender's level before she posts the information on the police website.

Ms. Ohlson stated she developed the annual book of the department's activities for 2004. Ms. Ohlson explained that she is the person to come to regarding warrants. She determines extradition and decides whether they'll accept a prisoner from another state; she verifies the offender's identity.

Chairman Enus asked Ms. Ohlson to explain her authority in the area of extradition as she viewed it.

Ms. Ohlson explained she receives calls from police agencies throughout the State if they have someone in custody on a university warrant. She reviews the warrant for accuracy and verifies the offender's identity, then the Nevada Highway Patrol handles all extraditions on her instructions. Ms. Ohlson referred to an incident that involved mistaken identity of a prisoner transferred north from Las Vegas. She made the arrangements for the individual's transportation back to Las Vegas and saved the department from a legal suit. It wasn't until all the details were handled that she advised the Lieutenant of what had transpired.

Marlies Radtke, Personnel Analyst, Business Center North Personnel Services (BCN), University of Nevada, Reno, introduced herself and Chief Adam Garcia. Ms. Radtke explained that after the July 15, 2005, meeting, Director Debra Olson, BCN, and Robin Freestone, Supervisory Personnel Analyst, BCN, and Jeanne Greene, State Personnel Director, met with Chief Garcia to review the responsibility level of Ms. Ohlson's position. Chief Garcia had described the role of Ms. Ohlson's position as well as the level of responsibility. He stated that while Ms. Ohlson has taken on additional responsibilities as TAC ensuring daily procedural operation of the program, her role is one that is a highly responsible administrative support position.

Ms. Radtke addressed the misunderstanding Ms. Ohlson had regarding another desk audit; instead of BCN meeting with Ms. Ohlson, they met with Chief Garcia to review the duties and responsibilities of her position.

Ms. Radtke, in reviewing the July 15, 2005 minutes, stated that Ms. Ohlson and Mr. Vanacore describe duties at a higher level than assigned to her position. They addressed changes in duties related to 9/11; statistical analysis duties; role in classification of crimes; planning, directing and coordinating the campus security program; creating and signing contracts and user agreements; serving as administrator for registering sex offenders; writing and enforcing policy; approving and making decisions on behalf of the University President, Chief Garcia, and Det. Sgt. Kevin Youngflesh; signature authority; assigning full liberties with the TAC program; drafting policies and procedures versus having the authority to approve; signing warrant validations; and Ms. Ohlson's role in false arrest and extradition arrangements with regard to having absolute authority to act on behalf of the agency.

Ms. Radtke explained that BCN recognized the change in Ms. Ohlson's duties and responsibilities as the TAC, from 5% to 50%; although her duties have broadened in scope of responsibility, Ms. Radtke stated that Ms. Ohlson's position is still within the Administrative Assistant III class concepts. This decision was strengthened by class concept comparisons to other positions. Ms. Ohlson's position is comparable to other Administrative Assistant III positions at the University Police Services Department and Division of Parole & Probation.

Ms. Radtke referred to her review of two Program Officer I, grade 31, positions at the University of Nevada, Las Vegas (UNLV). One is a dispatch coordinator, and the other serves as evidence technician supervisor including property and inventory control responsibilities. These two positions have a higher level of responsibility assigned to them than compared to Ms. Ohlson's position.

Ms. Radtke stated that Ms. Ohlson's position is already allocated to a highly responsible administrative support class involving problem solving, specialized duties, prioritization of work, adaptation of approaches and methods, serious consequences of error, and responsibility for detailed regulations and procedures. While Ms. Ohlson is a vital component for the successful operation of police services, reclassification is based on significant change in the duties and responsibilities resulting in the position being allocated to a higher level. The classification process does not take into account an individual's qualifications, experience, and the performance of incumbents.

Chief Garcia stated that he values Jeanne's commitment to the Police Department and her professionalism. Chief Garcia referred to the questions the Commission had on July 15, 2005, stating that he was the sole person responsible for the police department and he reports directly to President Lilley. None of his subordinates in the Police Services Department report to President Lilley.

Chairman Enus explained she was concerned about the description of Ms. Ohlson's role in performing the functions of her position. Ms. Ohlson describes herself as being solely responsible for making decisions for things such as extraditions. Chairman Enus asked Chief Garcia to describe how extraditions are handled; he explained they have an agreement with NHP to perform all of their extraditions throughout the State. Calls from NHP are received by

anyone in the department that happens to answer the phone; then that individual facilitates the process. Chief Garcia said Ms. Ohlson doesn't have sole authority to order extraditions on behalf of the police department.

Chairman Enus inquired about Ms. Ohlson's signature authority for the TAC and SPOC processes. Chief Garcia responded that under State law, the university system only authorizes the director of a department to sign on behalf of the department. Chief Garcia referred to his letter addressed to the NHP Records & Identification section dated August 28, 2001. It indicates that he appreciates the renewal of the letter being attached to their existing file with NHP headquarters. In his absence, it states that Ms. Ohlson, as TAC, will continue to be his alternate in signing warrant validation certification letters. His letter to Records & Identification indicated she didn't have sole authority; she simply signs as an alternate when he is not available.

Commissioner Sánchez referring to Ms. Ohlson's statement that she writes and enforces policies asked Chief Garcia how she does this. Chief Garcia responded that he wasn't sure where Ms. Ohlson enforces policy as that falls under their rules and regulations and to each supervisor. She does assist in writing department policy by providing input. Policies that she might write on her own would need to be approved through the chain of command.

Chairman Enus addressed Ms. Ohlson regarding her duties as described by Chief Garcia. Chairman Enus felt that Ms. Ohlson's duties were more in line with that of an administrative function and it challenged her to think that Ms. Ohlson would possess the breath of authority as she views her role to be in extraditions. The Chief's description of Ms. Ohlson's role clarified to her what seemed to be more appropriate for the role of an individual functioning at the Administrative Assistant III level.

Chairman Enus asked Ms. Ohlson to address how and why she viewed her role as being solely responsible for extraditions, with individuals having to clear them through her, and having the authority to determine whether extradition occurs, versus the Chief's description that whoever is available will assist in facilitating an extradition and ensuring that the appropriate contacts are made and paperwork completed.

Ms. Ohlson responded that she did write original policy with the department's former Chief and assisted with their revision when Chief Garcia took over. With regard to extraditions, as the TAC she does have the authority to make those decisions as they fall within the scope of her TAC duties. No one else in the department can make that assumption whether or not there should be an extradition on warrants if they're not the TAC or ATAC.

Commissioner Fox asked for clarification of what Ms. Ohlson meant by her making the decision for extradition. Ms. Ohlson reviews the paperwork and warrant then calls the arresting agency to verify identity, she has called the DA's office and on her recommendation made a change on an extradition to facilitate a transfer. As TAC, she has the authority to do extraditions and maintains a database. Ms. Ohlson did say that Chief Garcia is the final authority on decisions, but she makes those decisions without error. Ms. Ohlson stated the department was in 100% compliance under her direction.

Commissioner Fox asked what type of individuals are being extradited. Ms. Ohlson replied they have NCIC warrants that are national, and NCJIS warrants that are primarily traffic related. The courts set the bail schedules and that sets limitations where you would extradite. NCIC is up to the DA's office, but she has made recommendations to change an extradition that was approved, and she directed a Trooper to pick the individual up in the fugitive plane.

Chairman Enus stated it sounded like Ms. Ohlson was making decisions in a vacuum without discussing them with her immediate supervisor, Det. Sgt Youngflesh. Ms. Ohlson stated she is authorized to make those decisions according to criteria in the TAC procedures, and only checks with her superiors if there is a problem. So far, she's been able to handle the situations and made the correct decisions.

Chairman Enus asked Ms. Ohlson about Chief Garcia's statement that whoever is available assists in facilitating an extradition. Ms. Ohlson replied that the TAC or ATAC is the person to make extradition decisions in the Chief's absence. As TAC, she reports to Chief Garcia and not her immediate supervisor.

Commissioner Fox asked Ms. Radtke about the Administrative Assistant III with TAC duties compared to Ms. Ohlson's position. Ms. Radtke responded there is an Administrative Assistant III at the Division of Parole and Probation that is their TAC coordinator, in addition to being the custodian of records.

Commissioner Fox asked Chief Garcia to clarify Ms. Ohlson's role as the TAC. Chief Garcia referred to his department organization chart which shows Ms. Ohlson reporting to Det. Sgt. Youngflesh. If Ms. Ohlson is falling outside of the chain of command, it's without his knowledge. The chart is the final authority on reporting relationships.

Chief Garcia explained the TAC agreement entered into with the Department of Public Safety (DPS). The control terminal officer (CTA) at DPS, explains they will maintain and administer management controls with respect to the CJIS administrative policies. It discusses the role of the CTA, the person within the State that handles NCJIS. The user (Police Services Department) of the system agrees to appoint a TAC, which he is. As TAC, he represents and speaks on behalf of the department. Ms. Ohlson is the alternate acting on his behalf, not as the representative of the agency. He is the TAC by law and is permitted to appoint an alternate. Extraditions are very few and in his 4 years with the department there haven't been any out-of-state extraditions. Chief Garcia stated extraditions are not something done on a daily, weekly or monthly basis. If Ms. Ohlson believes she is the only one who has sole responsibility to order and assist with extraditions, she is mistaken.

Commissioner Sánchez asked Chief Garcia to comment on what Ms. Ohlson has characterized her duties to be in terms of independence and authority. Chief Garcia didn't believe Ms. Ohlson had the authority that has been portrayed. Chief Garcia addressed her representation that she reports to President Lilley for purposes of the campus security survey. Chief Garcia read a letter from the U.S. Department of Education to President Lilley asking him to appoint someone

familiar with campus crime and security procedures. Chief Garcia stated that he is the campus security survey administrator, and as such may delegate other staff to complete the survey. Ms. Ohlson is assigned to complete the survey and enter the data into the computer for the U.S. Department of Education. Chief Garcia also addressed Ms. Ohlson's involvement with the sex offender program. The records section is responsible for processing all offender registrations. The records section is where Ms. Ohlson works, but she does not have the sole authority nor has sole responsibility to carry out what's outlined in their policy and procedure. In the interview process with sex offenders, the records supervisor (Det. Sgt Youngflesh) reviews the completed offender registration form with the offender and makes the decision about what will happen beyond the interview.

Ms. Ohlson stated that regarding the sex registry, she calls the AG's office and communicates with attorneys. She met with them and had the procedure revised to include the university in registering sex offenders. She is part of the STOP team at Parole and Probation and she was extremely instrumental in getting the university to register sex offenders.

Ms. Ohlson stated her reporting relationship depends on which duty she is performing, and that none of her superiors completely know what she's doing. As far as the campus security survey administrator, the U.S. Department of Education recognizes that she has been the administrator for the past 5 years. Yes, the Chief is the ultimate authority for the department and he does run the department and she respects that; however, there are things she has the authority to do where she doesn't have to go through her superiors to ask permission.

There being no further comments or questions, Commissioner Sánchez's motion to deny Jeanne Ohlson's appeal was seconded by Commissioner Eastwick and unanimously carried.

B. Judy Larquier, Administrative Assistant III
Business & Industry Department, Western Nevada Community College

Judy Larquier explained that in December 2004, she reviewed her current duties and the State's classified job descriptions and determined that her duties were best described by the Program Officer II or Administrative Assistant IV class concepts. She provided the Commission with a history of the Business & Industry Department saying it was created in Spring 2003 with one Administrative Assistant III support position. She transferred to the position in Summer 2003 as an Administrative Assistant III and worked closely with the director in creating long and short-term goals and objectives for the department and her position. The director's position is currently vacant.

Ms. Larquier explained that the NPD-19 used to create the position didn't have the same duties and responsibilities as she currently has and she felt they were significantly different. Ms. Larquier stated the individual in her position must have the responsibility, autonomy and decision-making authority to effectively achieve the goals of the department. She uses a great deal of flexibility and discretion in coordinating training and consulting services for business and industry in WNCC's service area.

Ms. Larquier stated her position does more than maintain and monitor financial information. This position creates budgets, sets prices for consulting and training services, initiates, negotiates and signs contracts, and oversees projects. She is the initial contact with businesses utilizing their training services; she discusses their training needs; and puts individual training packets together. Ms. Larquier stated the consequences of error could cost the State money and credibility.

Ms. Larquier explained she is currently analyzing the budget needs and profit margin of a new driver training program in Fernley. She stated there are no guidelines and she must use her own knowledge, creativity and skills to initiate a program that will make a profit. Her position does more than just provide information regarding eligibility, course content, and programs and policies. Ms. Larquier sets the standards for eligibility, creates course content and policies. She works closely with business representatives to determine whether a course will be 4 or 40 hours long, and how much training is needed to gain the proficiency the business is looking for. This position does more than communicate between the director and others. This position needs an individual with finesse and skill to close deals and handle difficult situations. The position is largely responsible for getting jobs done as there is often no one else to share the responsibility. Ms. Larquier explained the difference from getting the job done and failure lies on the shoulders of her position. The position needs to have the responsibility and flexibility to come in early, work through lunch, and stay late when necessary. She represents the department at college, business and community meetings and events. In addition to customized training, the position is responsible for creating and monitoring a complete driver training program including researching and monitoring grants, putting programs together from scratch, scheduling classes, hiring instructors, overseeing curriculum, and running the driving simulator lab. She created the policies and procedures for the driver training program, and monitors legislative actions for changes in the programs. Ms. Larquier explained their grant writer had left and she is responsible for following through on grant applications.

Ms. Larquier summarized, saying her duties were broad and required the use of analytical and critical thinking to successfully fulfill the objectives of the department usually without any guidelines to follow. Ms. Larquier asked the Commission to grant her appeal.

Marlies Radtke, Personnel Analyst, University of Nevada, Reno, Business Center North Personnel Services, stated the Department of Personnel had evaluated Ms. Larquier's position and determined it to be appropriately allocated at Administrative Assistant III. Ms. Radtke explained there is a part-time/interim coordinator in the Business & Industry Department, which is an administrative faculty position whose purpose is to direct and administer all training programs. Ms. Larquier's primary purpose is to provide administrative support for the trainings and workshops of the Business & Industry program.

Ms. Radtke explained there had been several turnovers of coordinators and it provided an opportunity for the higher-level duties to fall onto the people left behind temporarily. Ms. Larquier was delegated duties from the coordinator position until it was filled. Ms. Radtke

stated Ms. Larquier received a 5% salary adjustment for taking on the additional responsibilities; however, reclassification would result only if the higher-level duties were assigned permanently.

Ms. Radtke reviewed Ms. Larquier's duties as providing administrative support for contracted training and driver training program, she explains program services, determines eligibility, establishes contacts, schedules trainings and arranges related logistics, prepares personnel/payroll and invoicing documents, purchases instructional materials, coordinates participant registration and tuition, prepares certificates of completion, instructs defensive driver classes on an as needed basis, and creates and distributes flyers and brochures. She also maintains and monitors 4 accounts totaling \$200,000 per year, and she supervises a temporary Administrative Assistant I position.

Ms. Radtke explained that Ms. Larquier's position functions at a highly responsible administrative support level. Many positions in this class are assigned specialized duties specific to their unique program. Incumbents explain detailed regulations and procedures to program clientele. Making eligibility determinations and having a high consequence of error is common at this level. Incumbents promote their programs by contacting others to make them aware of services.

Ms. Radtke discussed the comparisons of Ms. Larquier's position to other Administrative Assistant III's within the university system. In researching the specifics of these comparative positions, it was found that the task of establishing new contacts with external entities is found in other positions at the Administrative Assistant III level. Ms. Radtke also reviewed positions at the Administrative Assistant IV level, which perform specialized duties for a complex program; however, at this level a preponderance of time is spent performing higher level duties including problem solving and research, and comparing variables. These positions manage a budget and provide guidance to other clerical staff.

Ms. Radtke explained that Ms. Larquier has put a great deal of effort into her programs at WNCC and has demonstrated initiative in the absence of a Coordinator. Unfortunately, the classified service doesn't recognize individual performance as a valid factor for reclassification.

Helaine Jesse, Vice President, Department of Institutional Advancement, Western Nevada Community College, stated that prior to November 1, 2005, she had complete responsibility for the Business & Industry Department. Ms. Jesse supported Ms. Larquier's upgrade and said she operates at a paraprofessional level. Ms. Larquier's duties increased with the absence of a director; however when a director was finally hired, her duties did not diminish, decrease or lessen in any way. The scope of her work, decision-making, independent responsibilities, analytical decision-making, was still necessary for the success of Ms. Larquier's job. The Business & Industry Department at WNCC has the highest manufacturing employment base in the State. Ms. Jesse said that if Ms. Larquier didn't perform her duties, the work wouldn't get done. Ms. Jesse stated she has witnessed the new director and Ms. Larquier working together to create the programs and the curriculum needed to provide services to their section of the economy. Ms. Jesse explained she understood that BCN had to compare Ms. Larquier's position with others in the State, but she thinks this position is different in the scope of work and

the decisions that need to be made. The duties she has are permanent and she saw her role continuing with the new director.

Ms. Larquier clarified that the coordinator position of Business & Industry had been changed to Director during the summer of 2005. She stated that a lot of the things she does in the department is not just support. She is the decision maker. She has created policy, created the entire policy for the driver-training program. There was nothing, there were no guidelines. When they had a grant writer, she did research to complete grant applications and she has implemented \$180,000 worth of grants and completed the paperwork. The director works in the field, so she responds to all in-house calls, analyzes requests for training needs and makes it happen, and then troubleshoots the program.

Chairman Enus asked for clarification on the part-time interim coordinator. Ms. Larquier explained they have another program working in coordination with the college called *Management in Partnership*. This program also provides customized training, but they focus mainly on manufacturing. Ms. Larquier explained that an individual in that department will be working 50% as the director while they search for another. The director represents the college with manufacturers to explain the program.

Ms. Jesse clarified the position was changed from coordinator to director by the university president and is filled halftime. Chairman Enus asked if the position was filled, and Ms. Jesse replied yes. Ms. Jesse explained the incumbent is 50% director of Business & Industry and 50% director for Management in Partnership.

Chairman Enus stated that the departments are in a state of flux and that's why Ms. Larquier was granted a +5% salary adjustment. Ms. Larquier stated her +5% was mainly for the increased workload as her duties have not changed very much. The scope and authority of what she does, she held before and most likely will continue to hold when a new director is hired. Ms. Larquier explained she creates the budget for most of the projects the department has; she has signature authority on 4 accounts that represent several hundred thousand dollars. They also have a number of grants they monitor totaling up to \$200,000-\$400,000 in additional accounts she has signature authority on.

Ms. Radtke explained that reclassification cannot be granted for duties assigned on a temporary basis and workload is not a determining factor. The temporary assignments on the initial request for salary adjustment were based on duties taken from what the coordinator performed.

Ms. Radtke stated she doesn't disagree with Ms. Larquier's description of her duties and responsibilities; however, the autonomy and decision-making authority, her representation of the college at meetings and events in the community, the development of policies and procedures, and the analytical and critical thinking she performs are all representative duties at the Administrative Assistant III.

Ms. Larquier summarized that in reviewing the information listed within the Program Officer series to an Administrative Assistant series specification, she found that her duties match those of the Administrative Assistant IV and Program Officer II classes.

There being no further questions or comments, Commissioner Eastwick's motion to deny the appeal was seconded by Commissioner Sánchez and carried with Commissioner Fox voting against the motion.

VIII. Special Reports

There were none.

IX. Comments from the General Public

There were none.

X. Select Next Quarter Meeting Date

Director Greene stated the next meeting is scheduled for February 10, 2006, in Las Vegas, and they needed to schedule another meeting for mid-May. The Commission decided on May 12, 2006, in Carson City.

Chairman Enus presented a plaque of appreciation to Chief Deputy Attorney General Jim Spencer for his many years of service and dedication to the Personnel Commission.

The meeting was adjourned by Chairman Enus at 10:46 a.m.